

# MHR *Connections*

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## Managers and executives sent for human rights harassment education

A human rights adjudicator, appointed by the government, has found that a young man was sexually harassed by his female supervisor and that his former employer did not take reasonable steps to deal with the problem.

In a recent decision Adjudicator Lawrence Pinsky referred to the employer's lack of action as "anemic and inappropriate efforts to address the harassment." At the time the young man was 21 years old while his harasser was 41.

The young man had a troubled past, including previous addiction issues. Despite the employer's argument that the young man (the Complainant) had been dishonest in his past, Adjudicator Pinsky accepted that he had been sexually harassed in his workplace. In his decision he wrote, that the Complainant "...was harassed as defined by *The Code*, and that (his) employer knowingly permitted or failed to take reasonable steps to terminate the harassment..."

Adjudicator Pinsky used his broad remedial authority to order the harasser, as well as all the managers, assistant managers and executives employed by the employer to attend an educational seminar dealing with harassment in the workplace within three months of his decision. Also a policy dealing with harassment generally and sexual harassment in particular, would need to be written and approved by the Human Rights Commission within the same time period.

The young man was awarded compensation for injury to his dignity, self respect and feelings as a result of the harassment, but those amounts were set off against costs that the Adjudicator awarded against him.

This case affirms the recognition that everyone including individuals with problems are protected from sexual harassment under *The Human Rights Code*.

"It is important to recognize that discrimination can take place whether the subject of that discrimination is vulnerable or strong. Protections from sexual harassment exist even if you are a troubled person," said Azim Jiwa of the Manitoba Human Rights Commission. "We are however, somewhat perplexed that an award of costs was used to offset compensation for injury to the complainant's dignity because of the harassment."

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### The Rights Connection by Executive Director Azim Jiwa

Sometimes phrases or sayings are so maligned for their frequency of use we forget the impact these words have on how we view our lives and the lives of others.

At the recent Canadian Association of Statutory Human Rights Agencies (CASHRA) Conference it was observed that human rights are "all the things we are entitled to be, to do, or to have, simply because we are human."

Human rights are not earned. You are born with them. In Manitoba we have human rights that entitle us to a life free from discrimination. This is not the first time this has been said, nor will it be the last.

As human beings we also have another responsibility and that is to ourselves. Speaking at the conference was Mark Tewkesbury, the Canadian Olympic Champion with gold, silver and bronze medals, and numerous awards. While sporting achievements contributed to his early success, it is his post-Olympics life that has truly defined him. He is a global leader on LGBT sport issues.

He spoke passionately about the direct impact between being authentic and being able to get the most out of ourselves. He spoke candidly about the challenges he faced as a gay male in the sport of swimming. He encouraged us to "see the human first" and to treat each other that way.

The other message that came through at the conference was one most associated with the aspirations of people with disabilities... "nothing about us, without us." This directive is now being used universally, especially in relation to first nations.

Also Acting Chief Commissioner of the Canadian Human Rights Commission (CHRC) David Langtry spoke of inclusion and the CHRC's vision of "an inclusive society where everyone is valued and respected." With this statement he emphasised that inclusion does not mean forcing people to hide or deny their differences but rather to recognize and celebrate their differences.

Sometimes we need to be reminded of the powerful messages that human rights brings and they can and should be heard over and over again.

At the Manitoba Human Rights Commission our message is *equality of opportunity and freedom from discrimination* and is written on this Bulletin every month.

## Silence and austerity cuts trouble UN Special Rapporteur

United Nations Special Rapporteur on Disability Shuaib Chalklen of South Africa was in Winnipeg earlier this month and spoke at a round table discussion at the Manitoba Human Rights Commission. Thirty people from various organizations packed into the Commission's boardroom to hear him speak.

One of his major concerns is silent voices. "The lack of speaking out and asking why things have not changed enough is troubling to me." Another concern he has is how austerity cuts have shown little commitment to human rights in many countries.



Mr. Chalklen also listened to the discussion and was particularly interested in mental illness and human rights. "I have encountered many things I thought would never happen in this day and age, especially when it comes to mental illness," he said.

Mr. Chalklen is a prominent leader who has made extensive contributions to the advancement of persons with disabilities within both regional and global frameworks. The mandate of the Special Rapporteur is to monitor the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted by the General Assembly in 1993, and to advance the status of persons with disabilities throughout the world.

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The staff of the Manitoba Human Rights Commission receives, mediates and investigates complaints of discrimination as outlined in *The Human Rights Code*. The Board of Commissioners decides, after reviewing the investigative report, whether or not there is enough evidence to take the complaint forward and let an independent Adjudicator make a decision. Counsel for the Human Rights Commission then presents the case in the public interest to an independent adjudicator, appointed by the Government of Manitoba.

*Have a wonderful summer. The next edition of the MHR Connections Bulletin will be coming your way in late August.*

## Author defends human rights commissions and tribunals



*At her Winnipeg book launch Pearl Eliadis said her positive perspective of human rights commissions and tribunals was not a widely shared one in Canada. She reminded everyone that, "All our rights came from human rights commissions across the country."*

Canadians like to see themselves as champions of human rights in the international community. Closer to home, however, the human rights system in Canada – particularly its public institutions such as commissions and tribunals – has been the object of criticism based largely, according to author Pearl Eliadis, on widespread myths about how it works.

During her book launch at McNally Robinson book-seller in Winnipeg, she dispelled notions of kangaroo courts, thought-police, the 100 per cent conviction rate of human rights adjudications and tribunals and the ludicrous notion that discrimination no longer exists in Canada. "When I first heard these things, I remember being horrified," she said.

Ms Eliadis book, *Speaking Out on Human Rights* is available now.

On behalf of Azim Jiwa, Executive Director and Yvonne Peters Chairperson of the Manitoba Human Rights Commission:

We are inviting interested parties to participate in a round table discussion regarding the issue of Service Animals and reasonable accommodation. The discussion will be held on Wednesday September 24 from 2-4 pm, location to be determined.

**We ask that you distribute this information to any contacts who you believe may be interested in attending.**

To read the discussion paper please visit our website [www.manitobahumanrights.ca](http://www.manitobahumanrights.ca)

We look forward to your participation and hope you can attend.

**Please RSVP no later than August 29, 2014**

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